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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 RENE F. FERNANDEZ,

11 Petitioner,

12 vs.

13 JAMES GREG COX, *et al.*,

14 Respondents.
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Case No. 2:14-cv-01595-JAD-CWH

ORDER

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17 This is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, by a
18 Nevada state prisoner. Neither a filing fee nor an application to proceed *in forma pauperis* was
19 submitted with the petition. Petitioner must either submit the \$5.00 filing fee for habeas petitions or
20 an application to proceed *in forma pauperis*.

21 Due to the lack of an *in forma pauperis* application or filing fee, the present action will be
22 dismissed without prejudice to the filing of a new petition in a new action with a pauper application
23 with all required attachments. It does not appear from the papers presented that a dismissal without
24 prejudice would result in a promptly-filed new petition being untimely. In this regard, plaintiff at all
25 times remains responsible for calculating the running of the limitations period as applied to his case
26 and properly commencing a timely-filed habeas corpus action.

27 **IT THEREFORE IS ORDERED** that this action is **DISMISSED WITHOUT**
28 **PREJUDICE** to the filing of a new petition in a new action.

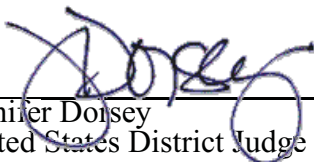
1 **IT IS FURTHER ORDERED** that the Clerk of the Court shall send petitioner two copies
2 of an *in forma pauperis* application form for a prisoner, one copy of the instructions for the same,
3 two copies of a blank 28 U.S.C. § 2254 habeas petition form, and one copy of instructions for the
4 same.

5 **IT IS FURTHER ORDERED** that petitioner may file a new petition in a new action, but he
6 may not file any more documents in this action.

7 **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**. Reasonable
8 jurists would not find the dismissal of the improperly-commenced action without prejudice to be
9 debatable or wrong.

10 The Clerk of the Court shall enter judgment accordingly.

11 Dated this 7th day of October, 2014.

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14 _____
15 Jennifer Dorsey
16 United States District Judge
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